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14 Jason Cordero

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

Jason Cordero,

Case No.:

Plaintiff,

COMPLAINT FOR DAMAGES

vs.

FOR VIOLATIONS OF:

Navient Solutions, LLC,

**1. THE TELEPHONE CONSUMER
PROTECTION ACT;
2. THE ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT**

Defendant.

JURY TRIAL DEMANDED

1 Plaintiff, Jason Cordero (hereafter “Plaintiff”), by undersigned counsel, brings
2 the following complaint against Navient Solutions, LLC (hereafter “Defendant”) and
3 alleges as follows:

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the
7 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”), and repeated
8 violations of the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788,
9 *et seq.* (“Rosenthal Act”).

10 2. Jurisdiction of this Court arises under 47 U.S.C. § 227(b)(3), Cal. Civ.
11 Code 1788.30(f), 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

12 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where
13 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or
14 where Defendant transacts business in this district.

15 **PARTIES**

16 4. Plaintiff is an adult individual residing in San Bernardino, California, and
17 is a “person” as defined by 47 U.S.C. § 153(39) and Cal Civ. Code § 1788.2(g).

18 5. Plaintiff is a “debtor” as defined by Cal. Civ. Code § 1788.2(h).

19 6. Defendant is a business entity located in Wilkes-Barre, Pennsylvania, and
20 is a “person” as the term is defined by 47 U.S.C. § 153(39) and Cal Civ. Code §
21 1788.2(g).

22

1 7. Defendant, in the ordinary course of business, regularly, on behalf of
2 itself or others, engages in the collection of consumer debts, and is a “debt collector”
3
4 as defined by Cal. Civ. Code § 1788.2(c).

ALLEGATIONS APPLICABLE TO ALL COUNTS

7 8. Plaintiff is a natural person allegedly obligated to pay a debt asserted to
8 be owed to Defendant.

10 9. Plaintiff's alleged obligation arises from a transaction in which property,
11 services or money was acquired on credit primarily for personal, family or household
12 purposes and is a "consumer debt" as defined by Cal. Civ. Code § 1788.2(f).
13

14 10. At all times mentioned herein where Defendant communicated with any
15 person via telephone, such communication was done via Defendant's agent,
16 representative or employee.
17

18 11. At all times mentioned herein, Plaintiff utilized a cellular telephone
19 service and was assigned the following telephone number: 626-XXX-6185 (hereafter
20 “Number”).
21

22 12. Within the last year, Defendant placed calls to Plaintiff's Number in an
23 attempt to collect a debt.

25 13. The aforementioned calls were placed using an automatic telephone
26 dialing system (“ATDS”) and/or by using an artificial or prerecorded voice
27 (“Robocalls”).
28

1 14. When Plaintiff answered Defendant's calls, he heard a significant period
2 of silence before Defendant's automated system attempted to connect Plaintiff with a
3
4 live representative.

8 16. In July of 2017, Plaintiff, speaking with a live representative, requested
9 that Defendant cease all further calls to his Number.

10
11 17. Ignoring Plaintiff's request, Defendant continued placing ATDS and/or
12 Robocalls to Plaintiff's Number at an excessive and harassing rate.

13 18. Defendant's calls directly and substantially interfered with Plaintiff's
14
15 right to peacefully enjoy a service that Plaintiff paid for and caused Plaintiff to suffer
16 a significant amount of anxiety, frustration and annoyance.

COUNT I

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT, 47
U.S.C. § 227, et seq.**

21 19. Plaintiff incorporates by reference all of the above paragraphs of this
22
23 complaint as though fully stated herein.

24 20. The TCPA prohibits Defendant from using, other than for emergency
25 purposes, an ATDS and/or Robocalls when calling Plaintiff's Number absent
26 Plaintiff's prior express consent to do so. *See* 47 U.S.C. § 227(b)(1).
27

1 21. Defendant's telephone system has the earmark of using an ATDS and/or
2 using Robocalls in that Plaintiff, upon answering Defendant's calls, heard a period of
3 silence before being connected with a live representative.
4

5 22. Defendant called Plaintiff's Number using an ATDS and/or Robocalls
6 without Plaintiff's consent in that Defendant either never had Plaintiff's prior express
7 consent to do so or such consent was effectively revoked when Plaintiff requested that
8 Defendant cease all further calls.
9

10
11 23. Defendant continued to willfully call Plaintiff's Number using an ATDS
12 and/or Robocalls knowing that it lacked the requisite consent to do so in violation of
13 the TCPA.

15 24. Plaintiff was harmed and suffered damages as a result of Defendant's
16 actions.

17 25. The TCPA creates a private right of action against persons who violate
18 the Act. *See* 47 U.S.C. § 227(b)(3).

19

23 27. As a result of each call made knowingly and/or willingly in violation of
24 the TCPA Plaintiff may be entitled to an award of treble damages

COUNT III

**VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION
PRACTICES ACT, Cal. Civ. Code § 1788, et seq.**

1 28. Plaintiff incorporates by reference all of the above paragraphs of this
2 complaint as though fully stated herein.
3

4 29. The Rosenthal Act was passed to prohibit debt collectors from engaging
5 in unfair and deceptive acts and practices in the collection of consumer debts.
6

7 30. Defendant caused Plaintiff's telephone to ring repeatedly or continuously
8 to annoy Plaintiff, in violation of Cal. Civ. Code § 1788.11(d).
9

10 31. Defendant did not comply with the provisions of 15 U.S.C. § 1692, *et*
11 *seq.*, in violation of Cal. Civ. Code § 1788.17.
12

13 32. Plaintiff was harmed and is entitled to damages as a result of Defendant's
14 violations.
15

PRAAYER FOR RELIEF

16 WHEREFORE, Plaintiff prays for judgment against Defendant for:
17

18 A. Statutory damages of \$500.00 for each call determined to be in violation
19 of the TCPA pursuant to 47 U.S.C. § 227(b)(3);
20

21 B. Treble damages for each violation determined to be willful and/or
22 knowing under the TCPA pursuant to 47 U.S.C. § 227(b)(3);
23

24 C. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
25

26 D. Statutory damages of \$1,000.00 for knowingly and willfully committing
27 violations pursuant to Cal. Civ. Code § 1788.30(b);
28

1 E. Costs of litigation and reasonable attorneys' fees pursuant to Cal. Civ.
2 Code § 1788.30(c);
3
4 F. Punitive damages; and
5
6 G. Such other and further relief as may be just and proper.

7 **TRIAL BY JURY DEMANDED ON ALL COUNTS**

8
9
10 DATED: May 25, 2018

TRINETTE G. KENT

11 By: /s/ Trinette G. Kent
12 Trinette G. Kent, Esq.
13 Lemberg Law, LLC
14 Attorney for Plaintiff, Jason Cordero

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